



1951.

File No. Bills III/1951

Legal Deptt

B BRANCH

Subject:—

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L.D. VOLUME

BILLS III

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L.D. VOLUME NO.

BILLS III

1951.

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B Special
Suits A
Proceedings/51

Legal Department.
B. Branch.

L.A. BILL NO. IX OF 1951

A Bill to validate special jurisdiction
suits and proceedings in the State of
Bombay.

Bom. Act No.XV of 1951.

RMS.
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Legal Department.

A tentative draft Bill is sent herewith. It will be desirable to show the draft to the Advocate General, before Government approves it. It can then be sent to the High Court also for concurrence.

2. The subject-matter of the Bill falls under entries 3 and 65 in List II and entries 13 and 46 in List III in the Seventh Schedule to the Constitution. The Bill does not require any sanction or recommendation.

Sd/- J.R. Dhurandhar.
29.1.

Additional Secretary to Government.

U.R. to H.D., No.96-Domfl., dated the 29th January 1951

RMS.
26.1.

Legal Department.

A revised draft Bill is sent herewith
incorporating the amendments suggested by the
High Court.

Sd / J.R. Dhurandhar, 5.2.

Additional Secretary to Government.

Secy.H.D.

RMS.
26.6.

D.O.No.45/1/50-Judicial.

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS.

New Delhi, 2, the 13th February 1951.

Mr. Dehejia,

Will you please refer to your D.O. letter to Shri Iengar No.2346/5 dated the 1st February forwarding a copy of the Bombay Special Jurisdiction Suits and Proceedings Validation Bill? We have the following suggestions to make on the draft Bill:-

selely may
be dropped.

(a) Clause 3(1) It is not clear why the word "Selely" should be there at all, implying as it does that the ground referred to might be a good ground in conjunction with other grounds.

That has been
done, I think.

(b) Clauses 3(1) and 4(2):- Should not the reference in these clauses be to section 12, rather than to section 4 of the principal Act? It is true that the notification under section 4 invested the City Civil Court with jurisdiction; but it is section 12 that bars the jurisdiction of the High Court.

I do not agree.
that period is
necessary.
L.D. may
advise.

(c) Clause 4(2) :- An amendment to this clause, possibly in the shape of a proviso, seems necessary to make it clear that the longer period (of three months from the commencement of the Act) will not be available to suits and proceedings which were already barred by time on the date of their initial presentation to the High Court. Even in such cases the dismissal would be solely on the ground that section 12 barred the jurisdiction to the High Court. It is true that clause 4(2) which only sets the time limit for presentation before the City Civil Court is not intended to extend the period of limitation (this is done by clause 6) but it might be argued that that is its effect. Why set a time limit at all in clause 4(2) ~~or~~ in clause 4(3) especially when that involves computing the period of limitation for the suit or proceeding in question? And in computing this, if the further period allowed by clause 6 to be taken into account or not? This is not stated. It would seem sufficient if clauses 4(2) and 4(3) were merely to provide for presentation to the City Civil Court and not prescribe any period within which the presentation has to be made. The law of limitation sets the limit for a successful presentation.

(d) Clause 6 :- This provision as it stands is all right for cases returned within the three months, or which stand dismissed at the end of the three months for failure to apply for a return. But what about these cases for the return of which an application was made within the three months but which were returned only after the three months?

2. We shall be glad to know what action the State Government decided to take on the above suggestions. We would also like to have a copy of the Bill as introduced in the State legislature.

Yours sincerely,

Sd/-
(E.C. Gayner)

Shri V.T. Dehejia, I.C.S.,
Secretary to the Government of Bombay,
Home Department,
Bombay.

Legal Department.

Clause 3(1)

There is not much substance in the objections raised by the Government of India. But to remove any doubt of the kind raised by the Government of India on account of the use of the word "solely" in clause 3(1) the word "merely" may be used in place of that word. Similar change may be made also in clause 4(2).

2. Clause 3(1) and 4(2).- It is not necessary to remove reference to section 4.

3. Clause 4(2).- The view taken by the Secretary, H.D. is correct. No construction of the clause as suggested by the Government of India can be spelt out of clause 4(2).

3. Clause 6.- This clause may be worded as follows:-

"In computing the period of limitation in respect of any suit or proceeding referred to in subsection (1) of section 4 and filed in the City Court, the period from the date on which the said suit or proceeding was received by the High Court until the date on which the said suit or proceeding was returned by the High Court for being filed in the City Court shall be excluded."

Sd/- J.R. Dhurandhar,
17.2.51.

Secretary to Government.

U.R. to H.D. No.3056, dated the 19th February 1951.

RMS.
26.6.

No.4705
Legal Department,
Bombay Castle (Bombay No.1), 24th March 1951.

From

Shri J.R. Dhurandhar,
Secretary to the Government of Bombay.

To

The Secretary to the Governor of Bombay.

Subject:- The Bombay Special Suits and
Proceedings Validating Bill, 1951.

Sir,

With reference to Article 200 of the Constitution of India, I am directed to forward herewith for being presented to His Excellency the Governor the authentic copy of the Bombay Special Suits and Proceedings Validating Bill, 1951, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 27th February 1951 and the 5th March 1951 respectively.

2. The subject-matter of the Bill falls under entries 3 and 65 in List II and entries 13 and 46 in List III in the Seventh Schedule to the Constitution of India. As the provisions of the Bill are repugnant to the provisions of the Code of Civil Procedure, 1908, which is an existing law relating to entry 13 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to Article 254(2) of the Constitution of India,

3. I also forward herewith six copies of each of the items

-----	Nos. 1 and
1. Bill as introduced in the Bombay Legislative:	
Assembly with the Statement of Objects and :	2 and two
Reasons. :	copies of
2. Bill as read for the third time and passed :	item No.3
by the Bombay Legislative Council. :	
3. Extracts from the proceedings of the Bombay :	of the papers
Legislative Assembly dated the 27th :	noted in the
February 1951 and of the Bombay Legis- :	margin.
lative Council dated the 5th March, 1951. :	

The Bill was not referred to a Select Committee.

Yours faithfully,

Sd/- J.R. Dhurandhar. 22.3.
Secretary to Government.

Through:

The Secretary to the Government of Bombay,
Home Department.

No.G.S. 835

From

Shri L.M. Nadkarni, I.C.S.,
Secretary to the Governor of Bombay.

To

The Secretary to the Bombay Legislature Department,
Council Hall, Bombay.

Government House,
Bombay 6, March 30, 1951.

Subject:- The Bombay Special Suits and Proceedings
Validating Bill, 1951.

Sir,

With reference to the Bombay Special Suits and Proceedings Validating Bill, 1951, which was passed by the Bombay Legislative Assembly and the Bombay Legislative Council on February 27 and March 5, 1951, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the ~~xxx~~ Chairman that as the provisions of the Bill are repugnant to the provisions of the Code of Civil Procedure, 1908, which is an existing law relating to entry 13 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to Article 254(2) of the Constitution of India. His Excellency the Governor has accordingly been pleased, under Article 200 of the Constitution, to declare that he reserves the Bill for the consideration of the President.

Yours faithfully,

L.M. Nadkarni,

Secretary to the Governor of Bombay.

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No.G.S.=836

Office of the Secretary to the Governor,
Government House,
Bombay (6), March 30, 1951.

Copy forwarded with compliments for information to:-

The Secretary to the Government of Bombay, Legal Department
with reference to his letter No.4705, dated March 24,
1951.

The Secretary to the Government of Bombay, Home Department,
with reference to his endorsement No.2646/5-VII-B, dated
March 27, 1951.

Sd/- L.M. Nadkarni.

Secretary to the Governor of Bombay.

RMS.
26.6.

No.G.S. 1075.

From

The Secretary to the Governor of Bombay.

To

The Secretary to Government,
Legal Department.

Government House,

Bombay April 21, 1951.

Subject:- The Bombay Special Suits and
Proceedings Validating Bill,
1951.

Sir,

With reference to the correspondence ending
with your letter No.6148, dated April 16, 1951,
I am directed to return herewith the authentic copy
of the Bombay Special Suits and Proceedings
Validating ~~Bill~~ Bill, 1951, with the President's
assent signified thereon.

Yours faithfully,

Sd/-

for Secretary to the Governor of Bombay.

RMS.
26.6.

Acts.

Publication of the Bombay Special
Suits and Proceedings Validating Act,
1951.

GOVERNMENT OF BOMBAY,
Legal Department.
Resolution No.6539.
Bombay Castle, 24th April 1951.

Letter to the Secretary to the Governor, No.4705, dated
the 24th March 1951.

Letter from the Secretary to the Governor, No.G.S.1075,
dated the 21st April 1951.

"With reference to the correspondence ending with your
letter No.6148, dated April 16, 1951, I am directed to
return herewith the authentic copy of the Bombay Special
Suits and Proceedings Validation Bill, 1951, with the
President's assent signified thereon."

RESOLUTION:- The law should be published as Bombay
No.XV of 1951, in the Bombay Government Gazette dated the
24th April 1951.

2. The Act should be translated into Marathi, Gujarati,
Kannada and Hindi (in Devnagari script) and the translations
should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Home
Department.

By order of the Governor of Bombay,

Sd/-

(S.L. CHAUDHARI),
Deputy Secretary to Government.

To

The Manager, Government Central Press, Bombay
(with a copy of the Act and with a request
that 30 Gazette copies of the Act may be
forwarded to the Legal Department and 10
copies for the use of the Home Department),

The Home Department,

* The Oriental Translator to Government,) with a copy
The Bombay Legislature Department,) of the Act.
The Director of Publicity, Bombay,)
The Enquiry Officer for the Secretariat,)
Bombay.)

*With four extra copies of the Act.